

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

ALVIN MESSINGER

Plaintiff,

v.

CIVIL ACTION NO. 2:18-cv-00912

WINDOW WORLD, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

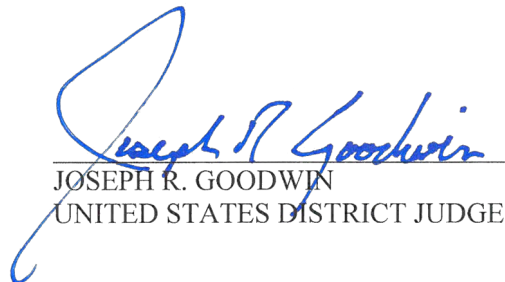
Pending before the court is Defendant Window World, Inc.'s Motion to Dismiss [ECF No. 8]. For the reasons stated below, the Motion is **DENIED as moot**.

On June 5, 2018, Defendant Window World, Inc. moved to dismiss the plaintiff's original Complaint [ECF No. 1-1]. On August 1, 2018, the court granted the plaintiff's Motion to Amend Complaint [ECF No. 26] and directed the Clerk to file the Amended Complaint [ECF No. 26-1] as the operative pleading in the matter.

"As a general rule, 'an amended pleading ordinarily supersedes the original and renders it of no legal effect.'" *Young v. City of Mt. Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) (quoting *In re Crysen/Montenay Energy Co.*, 226 F.3d 160, 162 (2d Cir. 2000)). When a plaintiff amends a complaint while a motion to dismiss is pending, a court may deny the motion as moot. *See Turner v. Kight*, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint because it was

superseded by the amended complaint); *see also Sennott v. Adams*, No. 6:13-cv-02813-GRA, 2014 WL 2434745, at *3 (D.S.C. May 29, 2014) (“Thus, a defendant's previous motion to dismiss is rendered moot when a plaintiff files an amended complaint.”); *Skibbe v. Accredited Home Lenders, Inc.*, No. 2:08-cv-01393, 2014 WL 2117088, at *3 (S.D. W. Va. May 21, 2014) (denying as moot defendants’ renewed motion to dismiss where “[t]he Third Amended Complaint superseded the Amended Complaint and the Second Amended Complaint”). Here, plaintiff’s amended pleading superseded its original Complaint. Accordingly, Defendant’s Motion to Dismiss [ECF No. 8] is **DENIED as moot**. The court **DIRECTS** the Clerk to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party.

ENTER: October 5, 2018



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE